Rule 411. Liability Insurance.

Evidence that a person was or was not insured against liability is not admissible to prove whether the person acted negligently or otherwise wrongfully. But the court may admit this evidence for another purpose, such as proving a witness's bias or prejudice or proving agency, ownership, or control.

Comment to 2012 Amendment

The language of Rule 411 has been amended to conform to the federal restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

Rule 411 previously provided that evidence was not excluded if offered for a purpose not explicitly prohibited by the rule. To improve the language of the rule, it now provides that the court may admit evidence if offered for a permissible purpose. There is no intent to change the process for admitting evidence covered by the rule. It remains the case that if offered for an impermissible purpose, it must be excluded, and if offered for a purpose not barred by the rule, its admissibility remains governed by the general principles of Rules 402, 403, 801, etc.

Cases

411.010 The trial court may not admit evidence of liability insurance to prove that a party acted negligently or otherwise wrongfully.

Warner v. Southwest Desert Images, 218 Ariz. 121, 180 P.3d 986, ¶ 37 (Ct. App. 2008) (plaintiff sued defendant weed control company after its herbicide spray entered building through air conditioning system; trial court granted defendant's motion to preclude plaintiff from introducing evidence of workers' compensation benefits she had received; court noted evidence that party is insured is typically inadmissible, and thus affirmed trial court's ruling).

Cervantes v. Rijlaarsdam, 190 Ariz. 396, 949 P.2d 56 (Ct. App. 1997) (plaintiff's doctor testified that plaintiff did not have CT scan because he did not have health insurance; because this rule precludes evidence of liability insurance, it did not preclude this testimony).

411.015 Although the trial court may not admit evidence of liability insurance to prove that a party acted negligently or otherwise wrongfully, it may admit such evidence if offered for some relevant purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.

American Fam. Mut. Ins. v. Grant, 222 Ariz. 507, 217 P.3d 1212, ¶¶ 2–30 (Ct. App. 2009) (respondent made claim with petitioner for injuries from automobile collision; petitioner retained orthopedic surgeon (Dr. Zoltan), who opined that respondent's injury was result of preexisting degenerative joint disease, so petitioner denied claim; respondent sued petitioner and sought discovery involving financial arrangements between petitioner and Zoltan; trial court ordered Zoltan to provide various items of information covering last 8 years; petitioner conceded that respondent may take Zoltan's deposition to demonstrate any bias, including general inquiry into his involvement in case, who hired him, his credentials, compensation received for this case, approximate number of examinations and record reviews he performed in last year, his dealings generally with petitioner and their law firm, approximate amount received for expert services in last year, approximate percentage of practice devoted to litigation-based examinations and record reviews, and his knowledge of other cases where he testified at depositions or

trials during last 4 years; court vacated challenged portions of trial court's discovery order and remanded so that trial court could assess whether respondent had explored less intrusive discovery, and if so, whether respondent could demonstrate good cause for any more expanded inquires).

Ritchie v. Krasner, 221 Ariz. 288, 211 P.3d 1272, ¶¶ 40–44 (Ct App. 2009) (plaintiff injured back at work; defendant doctor opined that plaintiff's condition was stable and that he could go back to work; plaintiff's condition continued to deteriorate; he was examined by AHCCCS doctor who diagnosed cervical spinal cord compression and recommended surgery; surgery halted further deterioration of plaintiff's spinal cord, but condition prior to surgery caused part of plaintiff's spinal cord to die; which caused constant pain, so AHCCCS doctor prescribed Oxycontin and Oxycodone; plaintiff subsequently died of accidental overdose, characterized as "synergistic effects of the various medications he was taking for his cervical spinal cord injury"; defendant contended trial court abused discretion in allowing plaintiff to introduce evidence of his financial situation and loss of workers' compensation benefits; court held trial court properly admitted that evidence to rebut fact that he did not receive continuing care between when he saw defendant and when he saw AHCCCS doctor).

Sheppard v. Crow-Baker-Paul No. 1, 192 Ariz. 539, 968 P.2d 612, ¶¶ 42, 44 (Ct. App. 1998) (party is entitled to introduce evidence that expert witness has done certain amount of work for insurance companies).

411.030 Mere mention of insurance in a negligence action will not be grounds for mistrial; a mistrial is appropriate only when reference would prejudice the fair trial of any party.

Cervantes v. Rijlaarsdam, 190 Ariz. 396, 949 P.2d 56 (Ct. App. 1997) (plaintiff's doctor testified that plaintiff did not have CT scan because he did not have health insurance; because this testimony was unresponsive and volunteered and prejudice is not presumed, no error).